

Exhibit “2”

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<p>IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS McALLEN DIVISION</p> <p>FILIBERTO J. GARZA MORENO)(Plaintiff)()(VS.)(CIVIL ACTION NO.)(7:21-cv-00247</p> <p>ALLEGANT TRAVEL COMPANY,)(ALLEGANT AIR LLC, AND)(AIRPORT TERMINAL SERVICES,)(INC.)(Defendants)(</p> <hr/> <p>ORAL DEPOSITION OF FILIBERTO J. GARZA MORENO FEBRUARY 18, 2022</p> <hr/> <p>ORAL DEPOSITION OF FILIBERTO J. GARZA MORENO, produced as a witness at the instance of the Defendant Airport Terminal Services, Inc., taken in the above-styled and numbered cause on FEBRUARY 18, 2022, between the hours of 12:04 p.m. and 3:47 p.m., reported stenographically by DONNA McCOWN, Certified Court Reporter No. 6625, in and for the State of Texas, at Bryant & Stingley, Inc., 2010 East Harrison Avenue, Harlingen, Texas, pursuant to the Federal Rules of Civil Procedure and any provisions stated on the record or attached therein.</p>		<p>1 EXHIBITS 2 NUMBER DESCRIPTION PAGE 3 3 Photograph 41 4 6 Boarding Passes 110</p> <p>5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	
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<p>APPEARANCES COUNSEL FOR PLAINTIFF: MICHAEL J. CISNEROS CISNEROS LAW FIRM, LLP 312 Lindberg Street McAllen, Texas 78501</p> <p>COUNSEL FOR DEFENDANT AIRPORT TERMINAL SERVICES, INC.: DAVID A. JOHNSON COWLES & THOMPSON, P.C. 901 Main Street, Suite 3900 Dallas, Texas 75202</p> <p>ROBERT L. GUERRA THORNTON BIECHLIN REYNOLDS & GUERRA 418 East Dove Avenue McAllen, Texas 78504</p> <p>COUNSEL FOR DEFENDANT ALLEGANT TRAVEL COMPANY AND ALLEGANT AIR, LLC:</p> <p>DON SWAIM CUNNINGHAM SWAIM, LLP 7557 Rambler Road, Suite 400 Dallas, Texas 75231</p> <p>INDEX</p> <p>PAGE</p> <p>Appearances 2</p> <p>FILIBERTO J. GARZA MORENO Examination by Mr. Johnson 4 Examination by Mr. Swaim 81 Examination by Mr. Cisneros 125 Examination by Mr. Johnson 132</p> <p>Errata Sheet/Signature Page 134</p> <p>Reporter's Certificate 136</p> <p>Attached to the end of the transcript: Stipulations</p>		<p>1 FILIBERTO J. GARZA MORENO, 2 having been duly sworn, testified as follows: 3 4 EXAMINATION BY MR. JOHNSON: 12:04 5 Q. Can you please state your full name for the record. 12:04 6 A. Filiberto Garza Moreno. 12:04 7 Q. Okay. Mr. Garza, my name is David Johnson. I'm an attorney representing ATS in a lawsuit that you've brought against both ATS and Allegiant. 12:04 8 Do you understand who I am and who I represent? 12:04 9 A. Yes, sir. 12:04 10 Q. Okay. I'm going to be asking you some questions today. If at any point you want to take a break, please tell me, and we can take a break. No questions asked. Okay? 12:04 11 A. Yes, sir. 12:04 12 Q. If at any point you don't understand a question I ask you, please ask me to rephrase or repeat it, and I will. 12:04 13 A. Yes, sir. 12:04 14 Q. Is this the first time you've ever given a deposition? 12:04 15 A. Yes, sir. 12:04 16 12:04 17 12:04 18 12:04 19 12:04 20 12:04 21 12:04 22 12:04 23 12:04 24 12:04 25</p>	

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12:04 1	Q. Okay. What's your current address?		12:07 1	Q. Where did you go to school?	
12:04 2	A. 4674 Main Avenue, Brownsville, Texas 78521.		12:07 2	A. I went to elementary in Buttonwillow,	
12:04 3	Q. How long have you lived at that address in		12:07 3	California and middle school in Perkins here in	
12:05 4	Brownsville?		12:07 4	Brownsville and high school and college and university	
12:05 5	A. For about 30-some years, 35 years.		12:07 5	in Brownsville.	
12:05 6	Q. What's your date of birth, sir?		12:07 6	Q. Okay. What year did you graduate from high	
12:05 7	A. November 23, 1981.		12:07 7	school?	
12:05 8	Q. And what's your Social Security number?		12:07 8	A. High school was in 1999.	
12:05 9	A. 571-87-7142.		12:07 9	Q. And after graduating from high school, you	
12:05 10	Q. You mentioned that you've lived at this address		12:07 10	mentioned college. Where did you go to college?	
12:05 11	for 35 years. Who do you live with at the address?		12:07 11	A. I went for a semester at U of H, Houston. Then	
12:05 12	A. My parents, mom and dad.		12:07 12	came back and went to UTRGV, then took a long break and	
12:05 13	Q. Other than your mother and your father, does		12:07 13	finished after my accident. In 2015 is when I went	
12:05 14	anybody else live at that address?		12:07 14	back and finished.	
12:05 15	A. Currently, my brother is living there upstairs.		12:07 15	Q. So let me kind of break that down if you	
12:05 16	It's like a duplex. He lives upstairs.		12:08 16	wouldn't mind.	
12:05 17	Q. And when you say your brother, you're referring		12:08 17	You graduated from high school in '99.	
12:05 18	to Aaron?		12:08 18	Did you immediately go to U of H?	
12:05 19	A. Aaron Garza, correct.		12:08 19	A. Yes, sir.	
12:05 20	Q. It's my understanding you have another brother		12:08 20	Q. You said you spent a semester there. Why did	
12:05 21	as well?		12:08 21	you move back?	
12:05 22	A. Alex Garza, correct.		12:08 22	A. It wasn't for me. I didn't like it.	
12:05 23	Q. And has Alex ever lived in the same house with		12:08 23	Q. Okay. When you moved back into the -- the	
12:06 24	you since this accident occurred back in --		12:08 24	Valley, did you start at UTRGV at that point?	
12:06 25	A. No, sir.		12:08 25	A. Correct.	
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12:06 1	Q. And when I say "the accident," I'm talking in		12:08 1	Q. And how long did you go to school at UTRGV	
12:06 2	2007 when you had a motorcycle accident.		12:08 2	during that period?	
12:06 3	A. No, sir.		12:08 3	A. For a year.	
12:06 4	MR. CISNEROS: Let him finish. Okay?		12:08 4	Q. And what was your major?	
12:06 5	Q. One -- one rule that I forgot to tell you early		12:08 5	A. I was undecided at the time.	
12:06 6	on, and we were horrible at it with your brother's		12:08 6	Q. Did you complete your education at UTRGV during	
12:06 7	deposition, but if you could do me a favor and wait		12:08 7	that time?	
12:06 8	until I finish a question before answering --		12:08 8	A. No, sir.	
12:06 9	A. Most definitely.		12:08 9	Q. Okay. At what year did you cease going to	
12:06 10	Q. -- it will help her out tremendously, and I		12:08 10	school at UTRGV during this time period?	
12:06 11	will try to do the same with your answers.		12:08 11	A. When I came back, it was 2000 is when I stopped	
12:06 12	Also, because there's a written transcript		12:08 12	going.	
12:06 13	being taken of your testimony, if you can make sure to		12:08 13	Q. Okay.	
12:06 14	answer questions verbally as opposed to head nods or		12:08 14	A. When I came back again after my accident was	
12:06 15	"uh-huhhs" or "huh-uhs." Okay?		12:09 15	back in 2000 -- I started in 2010 and finished in 2015.	
12:06 16	A. Yes, sir.		12:09 16	Q. Okay. During that time period between 2000 and	
12:06 17	Q. Where were you born?		12:09 17	2007, were you employed?	
12:06 18	A. I was born in Matamoros, Mexico.		12:09 18	A. Yes, sir.	
12:06 19	Q. And when did you come over from Matamoros?		12:09 19	Q. Okay. After stopping your studies at UTRGV,	
12:06 20	A. Immediately.		12:09 20	where were you employed first?	
12:06 21	Q. And so you spent your entire life in the United		12:09 21	A. My first employment was working at Greyhound,	
12:06 22	States?		12:09 22	the bus stop -- the bus station. I'm sorry.	
12:06 23	A. Yes, sir.		12:09 23	Q. Okay. Here in -- in --	
12:06 24	Q. Are you a U.S. citizen?		12:09 24	A. Brownsville, correct.	
12:07 25	A. I'm a U.S. resident, permanent resident.		12:09 25	Q. Okay. And how long did you work at Greyhound?	

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15:06 1	A. I don't recall. I want to say Anglo, but I --	15:09 1	inside. So the one that was pushing was the lady with
15:06 2	I know she had, like, blondish hair.	15:09 2	the walkie-talkie.
15:06 3	Q. Well, we know she had a walkie-talkie.	15:09 3	Q. Okay. The lady with the walkie-talkie pushed
15:07 4	A. We know she had a walkie-talkie, yes.	15:09 4	you?
15:07 5	Q. Okay. As it relates to your discussion about	15:09 5	A. Yeah. She was the one that was guiding, and my
15:07 6	not wanting to be manhandled, you had that discussion	15:09 6	family was behind. And once we got into the -- that
15:07 7	with her; is that right?	15:09 7	hallway, whatever, to load, the -- what is it? The --
15:07 8	A. Yes. Her and both the -- anybody that asked me	15:09 8	Q. The ramp way or the jet bridge?
15:07 9	that wanted. I don't remember. I think it was the --	15:09 9	A. Yeah, the bridge. Once we were at the end,
15:07 10	it was her and the other -- the gentlemen that were	15:09 10	that's when they were figuring out how to get me in
15:07 11	wanting to load me.	15:09 11	there. And that's when they called backup or those two
15:07 12	Q. Okay.	15:10 12	gentlemen come and help.
15:07 13	A. That was one of their, you know, questions.	15:10 13	Q. Okay. How did the chair get into the airplane,
15:07 14	And I -- I just said it out loud to everybody, that	15:10 14	the aisle chair?
15:07 15	that was out of the question for me to be manhandled	15:10 15	A. They pushed me.
15:07 16	like that in that way.	15:10 16	Q. Okay. Where were the flight attendants, if you
15:07 17	Q. You didn't want four people picking you up and	15:10 17	recall?
15:07 18	putting you down. You wanted to be picked up with	15:10 18	A. They were out -- I mean, most of us were
15:07 19	the --	15:10 19	outside trying to figure out a plan. So she was in and
15:07 20	A. Something, yeah.	15:10 20	out. It was a lady that was in and out.
15:07 21	Q. -- the sling?	15:10 21	Q. Okay. Do you recall ever seeing the pilots?
15:07 22	A. Yeah. With, you know, something -- I mean,	15:10 22	A. He came out once, yes. He came out and also
15:07 23	there's different ways. You know, people -- they train	15:10 23	tried to figure it out, you know, what was going on.
15:07 24	people how to -- you know, they trained my brother.	15:10 24	And he wasn't -- he wasn't much help.
15:07 25	You know, they train people on how to do certain	15:10 25	Q. Okay. Pilot wasn't really involved?
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15:08 1	things, you know, but I thought maybe somebody --	15:10 1	A. No.
15:08 2	that's why I asked them if they had been trained before	15:10 2	Q. Okay. As it relates to you getting into the
15:08 3	and if they had any ways of -- of transporting me, and	15:11 3	chair, the seat, I got your records here, and the
15:08 4	they said no.	15:11 4	records indicate you were originally in seat 4 -- 4A;
15:08 5	Q. They hadn't been trained to use your Hoyer	15:11 5	is that correct?
15:08 6	lift. Is that what you're saying?	15:11 6	A. Yeah. They had to switch me, because when I
15:08 7	A. Or you just practice on how to, you know, move	15:11 7	was booking the flight, I guess somebody had already
15:08 8	somebody from -- from a -- like from a wheelchair.	15:11 8	picked those -- those -- they were already picked. So
15:08 9	That was my concern. You know, and that's when they	15:11 9	when I called, they said, well, just pick anything, and
15:08 10	said that, no, that they -- they only loaded the	15:11 10	then when you're there, they'll -- they'll arrange the
15:08 11	baggage, that that's what their job was.	15:11 11	seating, so...
15:08 12	Q. Okay. From -- after being loaded onto the	15:11 12	Q. Okay. Did you want to be in 3A, the front row?
15:08 13	aisle chair, you were taken down the -- the ramp	15:11 13	A. No. That's where they told me I had to be in
15:08 14	towards the aircraft; is that right?	15:11 14	one of those seats.
15:08 15	A. After -- I'm sorry. Can you repeat?	15:11 15	Q. Who told you you had to be in 3A?
15:08 16	Q. You were loaded -- you were loaded on the aisle	15:11 16	A. Well, the stewardess. Is that what they call
15:09 17	chair --	15:12 17	them? The --
15:09 18	A. Uh-huh.	15:12 18	Q. Flight attendant?
15:09 19	Q. -- and then you were taken down the -- the	15:12 19	A. Yes, yeah.
15:09 20	gangway or the ramp to the aircraft; is that correct?	15:12 20	Q. Okay. You're saying that she told you you had
15:09 21	A. Correct.	15:12 21	to be in 3A?
15:09 22	Q. And you were pushed by one of the two men, and	15:12 22	A. Well, I mean, they -- they said that that would
15:09 23	then your aisle -- the aisle chair was put into the	15:12 23	be the -- she's, like, "This is going to be the only
15:09 24	aircraft; is that true?	15:12 24	chair where it make sense for him to sit." So she -- I
15:09 25	A. The men didn't get there until once I was	15:12 25	guess whoever was originally going to be there, she

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15:12 1	spoke to them and made accommodations for them and gave	15:15 1	by yourself?
15:12 2	them free drinks and everything, and the guy was cool	15:15 2	A. Correct.
15:12 3	with it. So she made all the -- she made -- yeah, she	15:15 3	Q. And so when you got to the airport that day on
15:12 4	made all those arrangements with him.	15:15 4	the flight, you arranged it with the flight attendant
15:12 5	Q. I get it. She -- she made 3A available for	15:15 5	so you could be on the same row with a family member;
15:12 6	you. Is that the place you wanted to sit?	15:16 6	is that right?
15:12 7	A. Well, I just -- no. I mean, I didn't pick it.	15:16 7	A. Correct.
15:12 8	I mean, it was --	15:16 8	Q. And they accommodated you and moved people
15:12 9	Q. Did you want to sit next to a relative?	15:16 9	around so you could be together on 3A; is that right?
15:12 10	A. I asked, yeah, my mom, because -- since I	15:16 10	A. Correct.
15:12 11	needed -- I can't drink for myself. So I needed	15:16 11	Q. Okay. And the flight attendant did that for
15:12 12	somebody to -- that -- to be with me.	15:16 12	you at your request; is that right?
15:13 13	Q. And that was the problem. You were in 4A and	15:16 13	A. Yeah.
15:13 14	your mom was in 5 and you weren't together and you	15:16 14	Q. Okay. Now, we sort of described you being --
15:13 15	wanted to be together; is that correct?	15:16 15	is it easier for me to stand over here?
15:13 16	A. No, that wasn't a problem. I don't matter	15:16 16	A. Don't matter.
15:13 17	where, but my thing is I needed somebody to be with me,	15:16 17	Q. So you can see me. I hate to be behind the
15:13 18	you know.	15:16 18	court reporter.
15:13 19	Q. I'm sorry. That's what I was trying to say.	15:16 19	MR. SWAIM: Okay with you?
15:13 20	I'm not trying to put words in your mouth, but you	15:16 20	THE COURT REPORTER: Yeah, you're fine.
15:13 21	wanted somebody next to you?	15:16 21	Q. When you were being put in the airplane, as I
15:13 22	A. Yeah. Like I said, I didn't care where. I	15:16 22	appreciate it, they get you in the aisle chair, and
15:13 23	just -- yeah, I needed somebody to be with me. And	15:16 23	four of you -- or four of -- four people get the -- the
15:13 24	like I said, when I called, I asked, because I remember	15:17 24	sling to put you into the seat; is that correct?
15:13 25	they told me -- I mean, from the previous before that,	15:17 25	A. Yes, sir.
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15:13 1	I had to be up front in one of those chairs, but when	15:17 1	Q. Your brother was on your left side in the back;
15:13 2	I -- when you book the flights, that one was already --	15:17 2	is that correct?
15:13 3	they were already booked.	15:17 3	A. In the back?
15:13 4	Q. Can I go around and stand next to you?	15:17 4	Q. He was behind you.
15:14 5	A. Yes, sir.	15:17 5	A. While they were loading me?
15:14 6	Q. I want to show you what I marked as Exhibit	15:17 6	Q. Yeah. Into the -- from the aisle chair into
15:14 7	No. 6, and I will represent to you this is --	15:17 7	the airplane.
15:14 8	A. Move it a little bit.	15:17 8	A. Yes.
15:14 9	Q. Sure. Can you see it?	15:17 9	Q. There are four positions.
15:14 10	A. Okay.	15:17 10	A. Yeah. So, yes.
15:14 11	Q. This is some of the information regarding your	15:17 11	Q. One person is behind you on your left arm, and
15:14 12	ticket originally, and you did that online; is that	15:17 12	one person is behind you on your right side, and then
15:15 13	right?	15:17 13	one person was at your left foot, and one person was at
15:15 14	A. Yes, sir.	15:17 14	your right foot?
15:15 15	Q. Okay. And if you look at the second page of	15:17 15	A. Yes. So, yeah, my brother was over here.
15:15 16	this document, this shows your flight on June 13th,	15:17 16	Q. Okay. So your brother was behind you. There
15:15 17	which was a Thursday, and this is from McAllen to	15:17 17	was a man in the uniform on your right arm; is that
15:15 18	McCarran, which is Las Vegas. And this shows seats	15:17 18	right?
15:15 19	that you -- you had selected 4A and 5C; is that right?	15:17 19	A. Correct.
15:15 20	A. Uh-huh.	15:17 20	Q. Then your dad was on the left, or was he on
15:15 21	Q. Yes?	15:18 21	your right foot?
15:15 22	A. Yes.	15:18 22	A. Right.
15:15 23	Q. Okay. Now, as I understand it, you picked	15:18 23	Q. He was on your right foot. And another man
15:15 24	those seats, but you wanted to sit next to either your	15:18 24	from one of the companies was on your left foot?
15:15 25	mother or another family member because you can't drink	15:18 25	A. Correct.

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15:42 1	supplies, what equipment we need. So, again, they --		15:45 1	Q. -- the incident that happened on 2019?	
15:42 2	they set me up with -- with the prescription for an air		15:45 2	A. Correct.	
15:43 3	mattress. So the mattress is an air mattress also by		15:45 3	MR. JOHNSON: Objection, leading.	
15:43 4	ROHO. They set me up with a chair. This chair, it		15:45 4	Q. Have they helped since 2019?	
15:43 5	tilts, it reclines, it elevates. So it's got four		15:45 5	A. Not really. I mean, it's been the same.	
15:43 6	functions and all that is -- is to relieve sores and		15:45 6	Q. When you -- when you purchased the airline	
15:43 7	for me not to -- to develop them.		15:45 7	tickets online, were you the one that filled out --	
15:43 8	The bed also does that. It also tilts.		15:45 8	answered all the questions?	
15:43 9	It also reclines. So it's got a lot of functions for		15:46 9	A. Yes.	
15:43 10	me to move around my sores. It has another function		15:46 10	Q. Was there a section on the website that allowed	
15:43 11	where the air moves so I don't have too much pressure		15:46 11	you to notify or let Allegiant know that you were	
15:43 12	on one side. That's the bed.		15:46 12	handicapped?	
15:43 13	They -- for transporting, they -- they		15:46 13	A. Yes.	
15:43 14	showed us how to use the Hoyer, the lift, a shower		15:46 14	Q. And was there a section there that you had to	
15:43 15	chair that's special also that also reclines and stuff.		15:46 15	fill out describing what your handicap or your	
15:44 16	So all this stuff that they provided was for that,		15:46 16	condition was, or did you have to check something off?	
15:44 17	for -- for me not to get hurt, for me not to develop		15:46 17	A. Just check if you're handicapped.	
15:44 18	sores. So since then, I haven't had a problem with --		15:46 18	Q. Okay.	
15:44 19	with bedsores at all whatsoever.		15:46 19	A. And equipment -- special equipment that we	
15:44 20	Q. And -- and as a result of all of that, the		15:46 20	needed to transport.	
15:44 21	instruction and the products and the items and		15:46 21	Q. But Allegiant became aware of that certainly	
15:44 22	teachings that were provided to you by DARS and TIRR,		15:46 22	when you got to the ticket counter, correct?	
15:44 23	in your opinion, did that help with the healing of the		15:46 23	A. Yes.	
15:44 24	wounds?		15:46 24	MR. SWAIM: Objection, form.	
15:44 25	A. Oh, most definitely, yeah.		15:46 25	Q. And when you got to -- to the gate?	
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15:44 1	Q. And have you -- have you continued using those		15:46 1	A. Yes, sir.	
15:44 2	products and following those instructions after they		15:46 2	Q. You and your family were there with your --	
15:44 3	healed?		15:46 3	with your equipment and your wheelchair, correct?	
15:44 4	A. Most definitely, yes.		15:46 4	A. Correct.	
15:44 5	Q. What about after the incident that occurred on		15:46 5	Q. And they saw you in your wheelchair?	
15:44 6	the Allegiant airplane in 2019? Did you continue?		15:46 6	A. Yes, sir.	
15:44 7	A. Continue, yeah.		15:46 7	MR. CISNEROS: Okay. Pass.	
15:44 8	We didn't change anything. Nothing		15:46 8	EXAMINATION	
15:44 9	changed as far as my basic daily routine.		15:46 9	BY MR. JOHNSON:	
15:45 10	Q. As taught to you by TIRRs --		15:46 10	Q. Mr. Garza, just one quick point of	
15:45 11	A. Correct.		15:46 11	clarification.	
15:45 12	Q. -- or TIRR and -- and DARS?		15:46 12	For DARS, which office of DARS do you deal	
15:45 13	A. Yeah, TIRR. Yeah, DARS -- DARS is a supplier.		15:47 13	with?	
15:45 14	They're the ones that help me with -- with		15:47 14	A. Brownsville offices.	
15:45 15	financing and providing, and, yeah, the doctors and --		15:47 15	Q. Okay. And who in the Brownsville office do you	
15:45 16	Q. DARS helps you -- helped you purchase the		15:47 16	primarily work with?	
15:45 17	wheelchair.		15:47 17	A. Like I said in the past, since I've been with	
15:45 18	A. Correct, yeah.		15:47 18	them, I think I've had, like, nine counselors, but I	
15:45 19	Q. Anything else?		15:47 19	want to say at the time when all this happened, Lorena.	
15:45 20	A. The wheelchair and the -- anything that		15:47 20	I want to say Vega is her last name, V-E-G-A, is the	
15:45 21	Medicare does not provide, they're the ones that help		15:47 21	counselor I was -- I was seeing at the time.	
15:45 22	me out.		15:47 22	Q. And have you received any equipment -- and when	
15:45 23	Q. So none of that has helped heal the wounds that		15:47 23	I'm talking equipment, I'm specifically referring to	
15:45 24	came about after the --		15:47 24	your wheelchair, your -- the Hoyer lift and Hoyer sling	
15:45 25	A. No, sir.		15:47 25	and then your bed.	

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